

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-HTF/1128

- Applicant** : Mr. LAM Wai represented by Metro Planning and Development Company Limited
- Site** : Lot 375 RP in D.D.128 and adjoining Government Land (GL), Ngau Hom Shek, Yuen Long, New Territories
- Site Area** : About 1,560 m² (including GL of about 574m² or 36.8%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ha Tsuen Fringe Outline Zoning Plan (OZP) No. S/YL-HTF/12
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Animal Boarding Establishment (Dog Kennel) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary animal boarding establishment (dog kennel) for a period of 3 years at the application site (the Site), which falls within an area zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP for the “AGR” zone, ‘Animal Boarding Establishment’ which is a Column 2 use requires planning permission from the Town Planning Board (the Board). The Site is currently hard-paved and used as parking of trailers and storage of pipes and other miscellaneous items (**Plans A-2 and A-4**).
- 1.2 The Site is involved in two previous applications (No. A/ YL-HT/378 and 491) for various open storage uses which were rejected by the Committee between 2005 and 2007 which are not relevant to the current application.
- 1.3 The Site is accessible via a local track to Deep Bay Road (**Plans A-2 and A-3**). As shown on the layout plan at **Drawing A-2**, the proposal comprises four one-storey temporary structures with total floor area of about 465m² and building height of not more than 4.5m for dog kennel, office and toilet uses. The applicant proposes to allow a maximum of 36 dogs to be kept at the dog kennel. The animals will reside in enclosed structures, which will be equipped with soundproofing materials and provided with mechanical ventilation and air-conditioning system. According to the applicant, the use of public announcement system will not be allowed at the Site. A

maximum of 12 visitors per day will be allowed. A discharge licence under the Water Pollution Control Ordinance (WPCO) would be obtained. The sewage from the toilet and the dogs' excreta would be handled by septic tank and soakaway pit. Four private car parking spaces will be provided at the Site. The operation hours are from 9 am to 7 pm every day. After the opening hours, 2 staff will stay at the Site to take care of the dogs. The vehicular access plan, site layout plan and drainage plan are at **Drawings A-1 to A-3** respectively.

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with attachments received on (**Appendix I**) 31.12.2021
- (b) Further Information (FI) received on 24.1.2022 responding (**Appendix Ia**) to Environmental Protection Department's (EPD) comments [*exempted from publication requirements*]

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI (**Appendices I and Ia**). They can be summarized as follows:

- (a) The proposed development is temporary in nature which would not jeopardize the long-term planning intention of the Site.
- (b) The nature, layout, form and scale of the proposed development are not incompatible with the surrounding environment.
- (c) The proposed development will not cause adverse traffic, environmental and drainage impacts to the surrounding areas.
- (d) The effluent discharges from the proposed development are subject to control under the WPCO and a discharge licence under the WPCO would be obtained before a new discharge is commenced.
- (e) The applicant will follow the relevant mitigation measures and requirements in the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites'.
- (f) The dog kennel will be maintained in a sanitary condition.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is not the "current land owner" but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the "Owner's Consent/Notification" Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending registered post to the Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members' inspection. For the GL portion, the requirements under TPB PG-No. 31A are not applicable.

4. Background

The current use at the Site would be subject to planning enforcement action.

5. Previous Applications

The Site is related to 2 previous applications (No. A/ YL-HT/378 and 491) for various open storage uses which were rejected by the Committee between 2005 and 2007. The considerations of which are not relevant to the current application for animal boarding establishment use. Details of these previous applications are shown in **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Application

There is one similar application (No. A/YL-HTF/1125) within the same “AGR” zone which was approved by the Committee on 24.9.2021 on the grounds that the development would not jeopardize the long-term planning intention of the “AGR” zone, no objection or adverse comment from relevant departments and not incompatible with the surrounding land uses. Details of the similar application are summarized at **Appendix III** and its location is shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plans A-2 to A-4)

7.1 The Site is:

- (a) currently hard-paved and used as parking of trailers and storage of pipes and other miscellaneous items without valid planning permission; and
- (b) accessible via a local track from Deep Bay Road (**Plans A-2 and A-3**).

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate east are a warehouse and a workshop which are suspected unauthorized developments (UDs). To its further east are vacant land, shrubland and graves;
- (b) to its south and southeast is an open storage yard of vehicles which is a suspected UD;
- (c) to its southwest and west is the Shenzhen Bay Bridge;
- (d) to its immediate north is an open storage yard of construction material which is a suspected UD and a residential dwelling (about 12 m away). To its further north across Deep Bay Road is the coastal area of Deep Bay.

8. Planning Intention

The planning intention of the “AGR” zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application are summarized as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lot and GL. The lot is held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) No permission is given for occupation of the GL included in the Site (about 574m² subject to verification). The act of occupation of GL without Government's prior approval is not allowed.
- (c) Should planning approval be given to the application, the lot owner(s) will need to apply to his office for permitting the structures to be erected or to regularize any irregularities on site, if any. The applicant has to exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.
- (c) The local track leading to the Site is not under Transport Department's (TD) purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.

- (b) The access road connecting the Site with Deep Bay Road is not and will not be maintained by HyD. HyD shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road.

Environment

9.1.4 Comment of the Director of Environmental Protection (DEP):

- (a) It is noted that there is a residential dwelling located to the north of the Site.
- (b) Provided that the facilities will be properly designed and maintained to minimize any potential environmental nuisance, he has no objection to the application.
- (c) Should the Board consider that the application is acceptable from planning point of view, he would suggest conditions should be stipulated in the approval letter that the animals shall be kept inside the enclosed soundproofing structures between 7:00p.m. and 9:00 a.m. on the Site and no whistle, public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site.
- (d) The applicant is advised to follow the mitigation measures and requirements stipulated in “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site”.
- (e) The applicant should also be reminded of the detailed comments at **Appendix V**.

Landscape

9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) According to the aerial photo of 2020, the Site is situated in an area of rural landscape character disturbed by open storage yards and temporary structures. The proposed development is considered not entirely incompatible with the existing landscape character of the surrounding area. With reference to the site photos taken on 12.1.2022, the Site was hard-paved with temporary structures and presence of existing trees. According to the record, one similar application (No. A/YL-HTF/1125) for the same use was approved within the same “AGR” zone.
- (b) The applicant should be reminded of the detailed comments at **Appendix V**.

Agriculture, Nature Conservation and Animal Boarding

9.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) The Site falls within the “AGR” zone and is being used as parking of

trailers and storage. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. as the Site possesses potential for agricultural rehabilitation, he does not support the application from agricultural perspective.

- (b) The Site is located in close proximity to the Shenzhen Bay Bridge egrettry which is located to the northwest of the Site. The application stated that there would be regular programme for the control and destruction of avian pest but no details of the programme is given so it is uncertain if there would be any negative impacts to the egrettry (or other wild birds). Due to the very close proximity of the Site to the egrettry, it is advised that if the application is approved, construction works (e.g. setting up of the structures and excavation for drainage) shall be conducted outside the ardeids breeding season (approximately March to August). The soundproofing of the dog kennel shall be maintained properly to minimize any potential noise disturbance and the dogs shall be kept inside the soundproofed structures.
- (c) The Site does not associate with any licence granted by his department, nor has he received any application regarding the Site. Under Cap. 139I Public Health (Animals) (Boarding Establishment) Regulations (the Regulations), any person who provides food and accommodation for animals in return for a fee paid by the owner must apply for a Boarding Establishment Licence from his department. The establishment and ancillary facilities which are licensed under the Regulations must always fulfil the criteria listed in the Regulations. On the other hand, the dogs kept by the applicant should be properly licensed in accordance with Cap. 421 Rabies Ordinance and the applicant is reminded to observe Cap. 169 Prevention of Cruelty to Animals Ordinance at all times.

Drainage

9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the application from a drainage point of view.
- (b) Should the Board consider that the application is acceptable from planning point of view, he would suggest conditions should be stipulated in the approval letter requiring the applicant to submit a revised drainage proposal, to implement and to maintain the proposed drainage facilities to the satisfaction of the Director of Drainage Services or of the Board.
- (c) The applicant should be reminded of the detailed comments at **Appendix V**.

Building Matters

9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

The applicant should be reminded of the detailed comments at **Appendix V**.

Fire Safety

9.1.9 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The applicant should note his detailed comments on the submission of FSIs proposal at **Appendix V**.

District Officer's Comments

9.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DO/YL, HAD):

His office has not received any comment from the locals on the application and he has no comment on the application.

9.2 The following government departments have no comment on the application:

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Chief Engineer/Land Works, CEDD (CE/LW, CEDD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (d) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

On 7.1.2022, the application was published for public inspection. During the statutory public inspection period, two public comments from Hong Kong Bird Watching Society and an individual were received (**Appendices IV-1 and IV-2**) objecting to the application on the following grounds:

- (a) the proposed development would have adverse impact on the “Inner Deep Bay and Shenzhen River Catchment” Important Bird Area and the Shenzhen Bay Bridge Egret; and
- (b) the proposed development is not in line with the planning intention of the “AGR” zone; and
- (c) there is no previous approval for similar use at the Site.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary animal boarding establishment (dog kennel) for a period of 3 years at the Site zoned “AGR” on the OZP. The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The proposed use is not entirely in line with the planning intention of the “AGR” zone. DAFC does not support the application from the agricultural point of view as the Site possesses potential for agricultural rehabilitation. Nevertheless, in view of the scale and nature of the proposed use, approval of the application on a temporary basis of 3 years would not jeopardize the long-term planning intention of the “AGR” zone.
- 11.2 The Site is situated in an area predominately occupied by shrubland, open storage yards and warehouse (**Plans A-2 and A-3**). The proposed use is generally not incompatible with the surrounding land uses.
- 11.3 There is no objection to or adverse comment on the application from other concerned government departments, including C for T, DEP, CE/MN of DSD, CTP/UD&L of PlanD and D of FS. The proposed use would unlikely create significant adverse traffic, environmental, drainage, landscape and fire safety impacts on the surrounding areas. The Site is located in close proximity to the Shenzhen Bay Bridge egress and the applicant should be reminded of DAFC’s detailed comments at **Appendix V**. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to minimise any potential environmental nuisances or to address the technical requirements of concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site” in order to minimise any potential environmental impact on the surrounding areas, to meet all statutory requirements under relevant pollution control ordinances, to provide suitable sewage treatment facilities and to apply for relevant licence(s) where appropriate.
- 11.4 The Site is the subject of two previous applications for various open storage uses of which the considerations were not relevant to the current application for animal boarding establishment use. The Committee approved a similar application No. A/YL-HTF/1125 for animal boarding establishment within the same “AGR” zone on the considerations, inter alia, that the development would not jeopardize the long-term planning intention of the “AGR” zone; the development was not incompatible with the surrounding land uses; there was no objection or adverse departmental comments. Approval of the application is in line with the previous decision of the Committee.
- 11.5 Two public comments were received objecting to the application mainly on grounds stated in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.4 are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments as summarised in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 18.2.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) all animals shall be kept inside enclosed structures with soundproofing materials, mechanical ventilation and air-conditioning system, as proposed by the applicant, between 7:00 pm and 9:00 am during the planning approval period;
- (b) no whistle, public announcement system, portable loudspeaker or any form of audio amplification system, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) provision of boundary fencing at the Site within **6 months** from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 18.8.2022;
- (d) the submission of a revised drainage proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 18.8.2022;
- (e) in relation to (d) above, the implementation of drainage facilities within **9 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 18.11.2022;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of fire service installations proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 18.8.2022;
- (h) in relation to (g) above, the implementation of the fire service installations proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 18.11.2022;
- (i) if any of the above planning conditions (a), (b) or (f) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (j) if any of the above planning conditions (c), (d), (e), (g) or (h) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix V**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use is not in line with the planning intention of the "AGR" zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission to justify a departure from planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form with attachments received on 31.12.2021
Appendix Ia	FI received on 24.1.2022
Appendix II	Previous Applications
Appendix III	Similar Application
Appendices IV-1 and IV-2	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Layout Plan
Drawing A-3	Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2022**